

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

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NASHVILLE, TENN.

JOINT PETITION OF TELEPHONE )  
ELECTRONICS CORPORATION )  
COMPANIES AND CAD FOR ) DOCKET NO. 99-00995  
APPROVAL OF EARNINGS REVIEW )  
SETTLEMENT )  
)

MOTION TO DISMISS

Comes the Consumer Advocate Division to respectfully move to dismiss the Petition to Intervene of AT&T for failure to state a claim upon which relief may be granted. AT&T does not show any harm to it arising from the proposed settlement.

Its sole allegation is that it pays access charges to TEC Companies which arise from the use of TEC Company facilities by TEC consumers and those persons calling TEC consumers. It does not provide any figure showing alleged costs from non TEC customers.

TEC consumers who use AT&T services already compensate AT&T for the use of AT&T's services. AT&T does not allege that the compensation provided to AT&T by TEC consumers is unjust or unreasonable. Since AT&T is receiving just and reasonable compensation from TEC consumers it fails to state a claim for which relief may be granted as to those customers.

The credits granted to TEC consumers by the proposed settlement increase the willingness of consumers to use services of providers such as AT&T. As a result, any AT&T claims related to TEC local basic service and AT&T consumers should be dismissed with prejudiced.

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Moreover, AT&T fails to state a claim for which relief may be granted with respect to non-TEC customers because it fails to allege that those consumer are not reimbursing AT&T for the use of TEC facilities.

Wherefore Tennessee consumers pray that AT&T's Petition to Intervene be dismissed for failure to state a claim for which relief may be granted.

Respectfully submitted,

*L. Vincent Williams*

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*by Vance Bivens*

#### CERTIFICATE OF SERVICE

I hereby certify that this Motion to Dismiss was served on parties of record by U.S. Mail and facsimile this 31<sup>st</sup> day of ~~February~~, 2000.

*January*

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